



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 9 December 2004

**15817/1/04
REV 1**

LIMITE

**PESC 1119
COHOM 51
CONUN 47**

PUBLIC

"I/A" ITEM NOTE

from : Working Party on Human Rights (COHOM)
to : COREPER/COUNCIL
Subject : Draft Council Conclusions on the implementation of EU human rights policy

1. Over the years, the Council has adopted various EU Guidelines on Human Rights, namely on the death penalty (doc. 9199/01), human rights dialogues (doc. 14469/01), torture (doc. 7369/01), children and armed conflict (doc. 15634/03) and human rights defenders (doc. 10056/01). Moreover, the Council adopted conclusions on human rights and democratisation in third countries in June 2001 and asked for annual progress reports on the implementation of these conclusions (docs. 9547/01 and 15138/02).
2. The Working Party on Human Rights (COHOM) has reviewed the implementation of the various EU Guidelines on Human Rights as well as of the June 2001 conclusions during its meetings in November and December 2004. On that basis, COHOM prepared draft Council conclusions on the implementation of EU human rights policy (as set out in Annex) and a second annual progress report on the implementation of the follow-up to the 25 June 2001 Council conclusions (Annex I to the Annex).

3. The Political and Security Committee examined and endorsed the draft conclusions and the annexed report at its meeting on 9 December 2004, keeping the text in paragraph 16 in brackets.
4. Coreper is invited to approve the text that is reproduced at annex, with a view to its adoption by Council as an "A" item.

Draft Council Conclusions on the implementation of EU human rights policy

The Council welcomes the second Annual Review on the Implementation of the EU policy on human rights and democratisation and on the basis of this review concludes as follows.

I. COHERENCE AND CONSISTENCY

A. EU performance at CHR and Third Committee UNGA

1. The Council concludes that EU priorities in human rights policy include a strong performance in and valuable contribution to the main multilateral human rights fora, the UN Commission on Human Rights (CHR) and the Third Committee of UN General Assembly (UNGA), as was once again shown by successful initiatives taken by the EU at this year's sessions.
2. The Council regrets the development during the 59th session of UNGA's Third Committee, where notwithstanding an active and constructive engagement by the EU, discussion was effectively blocked by means of introducing no action motions. The Council is resolved to use all the means at its disposal to ensure an efficient performance of the EU in the main multilateral human rights fora, including a more effective outreach strategy towards other partners and regional groups and more effective external political lobbying for EU initiatives. The EU will in particular use all the means at its disposal to counter the trend to block discussion of country resolutions by the use of no action motions at the main UN fora.

3. The Council continues to view country resolutions as an effective instrument of human rights policy, which are of critical importance for the credibility of the CHR and Third Committee.
4. The Council underlines the need of reform of the UN, particularly with regard to the human rights institutions, and the willingness of the EU to play an active role in this reform process, and following the Presidency's letter sent in September 2004 to the Chairman of the High Level Panel welcomes in this regard the emphasis on human rights issues in the report of the High Level Panel.

B. Evaluation of human rights dialogues

5. The Council underlines the importance of human rights dialogues as a vital instrument of the EU external human rights policy and will monitor closely, through the appropriate Council bodies, coherence and consistency of EU policy throughout and between the various ongoing human rights dialogues on the basis of the EU guidelines on human rights dialogues.
6. The Council underlines a number of leading principles for engaging into new structured human rights dialogues namely: major concerns about the human rights situation on the ground in the country concerned, the authorities of that country show a genuine commitment with regard to a human rights dialogue with the EU and with regard to improving the human rights situations on the ground, and a positive impact of a human rights dialogue on the human rights situation on the ground could reasonably be expected. Furthermore, the EU's capacity (in terms of institutional and human resources) to enter into new structured dialogues has to be ascertained.

7. The Council underlines the need, shown by the evaluations of the human rights dialogues with China and Iran, for more continuity on the EU side in these dialogues to improve their effectiveness as an important element of EU external human rights policy. All dialogues will be regularly reviewed by COHOM and other relevant working groups as an important means to ensure their continuity.

C. EU Guidelines on human rights

8. The Council underlines the importance of effective implementation of the existing human rights guidelines and in this respect welcomes the positive assessment of the implementation of the EU guidelines on death penalty, in particular by the extensive action undertaken towards third countries, such as integrating death penalty in bilateral dialogues and systematically making demarches on death penalty cases.
9. The Council notes that the EU guidelines on torture need further implementation and recommends that further use is made of the operational tools, mentioned in the guidelines, such as political dialogues, demarches and declarations.
10. The Council welcomes the Plan of Action for the implementation of the Guidelines on Children and Armed Conflict, combining the various types of thematic and regional expertise of Member States towards an integrated approach by the EU, in addition to steps undertaken so far to implement these guidelines and in close co-operation with expert NGOs and UN agencies.

11. The Council welcomed that this year's guidelines on human rights defenders were the subject of the Annual Human Rights Forum on 9-10 December which will produce practical tools for implementation, especially by EU missions in the field.
12. The Council underlines in general, that the assessment of the implementation of the various human rights guidelines demonstrates an urgent need for more continuity to ensure a coherent, visible and effective EU human rights policy. At the same time, careful reflection is necessary before embarking on new guidelines.

II. OPENNESS AND VISIBILITY

D. Enhanced cooperation with NGO's and transparency

13. The Council welcomes the setting up of the sub-Committee on Human Rights by the European Parliament and looks forward to engaging actively with it.
14. The Council considers NGOs as strategic partners of the EU in its human rights policy. They play an extremely valuable role in the monitoring of human rights in all parts of the world and will therefore continue to be actively involved in the implementation of EU human rights policy.

E. EU Human Rights Agency

15. The Council welcomes the Communication of the Commission of 25 October 2004 on the implementation of the decision of the European Council in 2003 to establish an EU Human Rights Agency.

F. [EU Personal representative for Human Rights]

16. In light of the importance of an active, coherent and consistent EU external human rights policy, which includes a strong performance at the main UN human rights fora, maintaining consistent human rights dialogues with third countries, effective implementation of the existing human rights guidelines and mainstreaming of human rights in all aspects of the external relations of the EU, the Council reiterates the need to enhance the continuity of EU human rights policy and to increase its visibility towards the general public and the NGO community in particular. [The Council welcomes the decision to appoint a Personal Representative of the SG/HR on Human Rights as a contribution to the coherence and continuity of the EU Human Rights policy.]

III. Review of EU priorities

G. EU priorities in human rights policy

17. The Council reaffirms that EU priorities in human rights policy include a strong performance in and valuable contribution to the main multilateral human rights fora, the CHR and the Third Committee of UNGA, the strengthening of the UN system for the promotion and the protection of human rights, the consistent discussion of human rights in its dialogues with third countries and the effective implementation of all other instruments of human rights policy, including the human rights guidelines and underlines in this respect that their effective implementation will remain of the utmost importance.

**Second annual progress report on implementation of the follow-up to the 25 June 2001
Council conclusions on human rights and democratisation in third countries.**

Pursuant to the Council conclusions of 10 December 2002, the Working Party on Human Rights (COHOM) has drawn up the following second annual progress report, covering the period 2004, on implementation of the follow-up to the 25 June 2001 Council conclusions on human rights and democratisation in third countries.

This reports complements the extensive assessment of progress made on implementing the provisions of the Commission Communication on human rights and democratisation in third countries (COM (2001) 252) set out in the Commission's Staff Working Paper adopted in July 2004 (SEC (2004) 1041).

The structure of this report follows that of the COHOM report dated 25 November 2002 annexed to the December 2002 conclusions (doc. 15138/02). The first review can be found in doc. 5751/04 of 11 February 2004.

I. COHERENCE AND CONSISTENCY

1. Reinforcing the role of COHOM

- * In March 2004 Council adopted conclusions, prepared by COHOM, on the EU's general position in this year's 60th session of the United Nations Commission on Human Rights (CHR 60), including positions to be taken regarding Iran and China.
- * Throughout the year, COHOM continued the practice of using annotated agendas and of adopting more operational conclusions.
- * At the beginning of each of the Irish and Netherlands Presidencies there was a presentation and discussion of the priorities for the coming semester.
- * Geographical groups were mainly involved via coreu and via contacts between the COHOM Chair and the Chairs of geographical groups in preparation of CHR 59. During a joint COHOM/COASI meeting CHR priorities were discussed as well as preparation of the EU-China human rights dialogue. COMEM was also involved in the preparation of the EU-Iran human rights dialogue.
- * The Commission presented Election Observation Mission priorities to both COHOM and concerned geographical groups.
- * COHOM also held a joint meeting with COSCE on 10 June 2004 in order to discuss upcoming OSCE meetings.

2. Strengthening the role of the Council Secretariat

- * Throughout 2004 the Council Secretariat has pursued its efforts to mainstream human rights and democratisation in all relevant parts of the CFSP including through its Liaison offices in Geneva and New York.
- * The Human Rights Action Group met on a regular basis, bringing together geographical and thematic desk officers within the Council Secretariat, as well as representatives of the Policy Unit, the High Representative's Cabinet and the Commission. It brings together those whose work concerns human rights issues, both within the CFSP and in areas of Community competence, thereby raising awareness of human rights matters generally and enhancing the flow of information between sectors. Internal consultation also takes place on a regular basis on specific issues or countries of concern.
- * The Council Secretariat provides considerable assistance to each Presidency in ensuring the follow-up to EU initiatives, and co-operates closely with the Commission on acting as a focal point for civil society and the European Parliament.
- * The Council Secretariat also provides speaking notes on human rights for Troika meetings with third countries.

3. Reinforcing the role of Heads of Mission

- * During 2004, EU Heads of Mission submitted reports and carried out demarches in line with the EU Guidelines on Torture, Death Penalty, Children and Armed Conflict and Human Rights Defenders as well as the Common Position on the ICC.
- * HoMs submitted country fact sheets on human rights (see below).
- * Heads of Mission in Beijing and Tehran also provided invaluable input to the preparation of and follow up to the EU-China and EU-Iran human rights dialogues in 2004.

4. Enhanced Consistency between Community action and the CFSP

- * The 2003 decision to extend COHOM's mandate to first pillar issues so as to have under purview all human rights aspects of the external relations of the EU is obviously an important step towards ensuring greater consistency between Community action and the CFSP.
- * A number of first-pillar related issues was brought to the attention of COHOM. COHOM held a first discussion on the overview of human rights dialogues with third countries and COHOM's role in this respect. COHOM also took account of EC and bilateral cooperation with a view to the implementation of the EU Guidelines on Children and Armed Conflict. It held a first discussion on the human rights aspects of the Commission's proposal for a Council regulation applying a scheme of generalised tariff preferences and the Commission's communication on the Future Financial Perspectives (2007-2013).

- * EU action on human rights, including through dialogue, demarches and initiatives in international fora is reinforced through the support which the European Initiative for Democracy and Human Rights (EIDHR) and other EC external assistance programmes has continued to extend to projects to address a wide range of human rights concerns, such as torture, children's rights, international justice including the ICC, the fight against the death penalty and support to democracy, good governance and the rule of law.
- * The year 2004 saw the pursuit of excellent co-operation between the Council Secretariat and the Commission on human rights matters, in line with their respective competencies, assisting greatly in the achievement of this objective. Examples of such cooperation included joint preparation of the sessions of the EU-Iran and EU-China human rights dialogues; increased joint organisation of and participation in meetings to address key EU priorities such as children and armed conflict; participation in and delivery of training on human rights to EU officials; and contributing to the implementation of the various guidelines.
- * Human rights are now included in the Commission's Country Strategy Papers and national indicative programmes.

5. Strengthening cooperation between Member States' embassies and Commission delegations

- * Instructions have been provided to EC Delegations regarding the implementation of the EU Guidelines on Children and Armed Conflict, including as regards co-operation with Member States' embassies and UN country teams.

6. Review of EU resolutions in CHR/UNGA

- * COHOM pursued its evaluation of the EU's performance in the CHR in light of the experience gained from CHR 60 on the basis of a report prepared by Member States' experts in Geneva. A number of the recommendations for improvement were implemented already in the preparations for the Third Committee of UNGA 59.
- * On 29 November 2004 COHOM held a special session to review the input of the EU into the CHR and ways to improve its effectiveness.
- * COHOM evaluated the results of the Third Committee at UNGA 59 on the basis of an assessment prepared by New York experts, with a view to improving performance at CHR 61 and UNGA 60.

7. Ensure coherence between internal and external EU policies

- * The 2004 EU Annual Report followed the streamlined format of the previous report and contained reporting on human rights issues internal to the EU as well as policy evaluation.
- * The Commission's Inter-service Group on Human Rights provides for systematic consideration of internal human rights issues and to promote coherence between internal and external human rights policy.

- * In 2003 the decision was taken to extend the mandate of the EU Monitoring Centre on Racism and Xenophobia to become a Human Rights Agency. The Commission published a Communication on 25 October 2004 regarding this issue and has launched public consultations with civil society and other interested parties.
- * There is not one desk responsible for internal human rights issues, but a variety of Council Working Groups and Troika meetings touch on these matters (in particular in the fields of JAI, OSCE/CoE and Social Affairs).

8. Regarding an EU common strategy on human rights and democratisation

- * The Council adopted EU Guidelines on Human Rights Defenders in June 2004.
- * COHOM undertook assessments of the implementation of the EU Guidelines on Prevention of Torture, Children and Armed Conflict, the Death Penalty, as well as the EU Guidelines on Human Rights Dialogues and put forward recommendations for future follow-up.
- * COHOM undertook evaluation of EU Human Rights Dialogues with China and Iran, leading to the adoption of Council Conclusions in October 2004, which included recommendations for future dialogue rounds. An overview of all ongoing dialogues on human rights has been discussed in COHOM as well as an analysis of the various types of dialogues and the criteria for engaging in these dialogues.

II. MAINSTREAMING

Examples of progress achieved during the period covered by this report in the area of mainstreaming human rights in all aspects of policy decision-making and practice include the following:

- * The Commission pursued basic, advanced and specialised human rights training for its staff at Headquarters and in Commission Delegations in 2004.
- * High Representative / Secretary General Solana and Commissioner Patten have raised human rights concerns with third countries on various occasions during troikas and bilateral and multilateral meetings, and have met members of the opposition of various countries.
- * EU Heads of Mission around the world prepared fact sheets on human rights, containing information on the implementation of human rights and human rights policy by third countries.
- * Human rights considerations have been strengthened in Commission Trade policy, as evidenced inter alia by examples of successful mainstreaming set out in the Commission Working Paper.

III. OPENNESS

9. Relations with the general public

- * Despite considerable efforts it proved not to be feasible to set up an inter-institutional website on human rights at this stage. The Commission and the Council's websites were however expanded and updated and a new Europa portal on human rights was established. The Annual Report on Human Rights refers to the relevant internet addresses for the Council, Commission and European Parliament.

10. Relations with the European Parliament

- * Members of the Troika met informally with members of the newly established Sub-Committee on Human Rights of the European Parliament in September 2004 to discuss the Presidency's priorities as well as a number of additional human rights concerns of importance to the EP. Ms le Flautre, MEP, Chair of the Sub-Committee was invited for an exchange of views with the members of COHOM in November 2004 to discuss priority areas in EU human rights policy. Another exchange of views was held between the Presidency and the Foreign Affairs Committee of the European Parliament in November 2004.
- * The Presidency briefed interested MEPs on the outcome of the UN Commission on Human Rights, and MEPs held an exchange of views with Heads of Mission in Geneva during CHR.

- * The Council Secretariat and the Commission pursued informal contacts with the European Parliament, particularly with the Parliament's Secretariat.
- * The Commission provided a detailed written response to the European Parliament Annual Report on Human Rights.
- * An informal inter-institutional group on children's rights was launched in September 2004, drawing together officials from the European Commission, Council Secretariat and European Parliament to provide the opportunity for exchanges of views on initiatives and best practice.

11. Relations with civil society/NGOs

- * Representatives of civil society and NGOs were very closely involved by the Irish Presidency in the preparation of the EU's Guidelines on Human Rights Defenders, adopted by Council in June 2004, attending a seminar on the subject in May.
- * There is a structured dialogue in Geneva between the EU's human rights experts and the main human rights NGOs, with a particular focus on CHR preparation. Several meetings took place in 2004, at various levels.
- * NGOs have continued to be essential implementing partners in the context of the EU's external assistance programmes, including the EIDHR. Extensive consultations were also undertaken with NGOs through a new 'human rights action group' in the context of preparations of the EIDHR programming for 2005-6.

12. COHOM, Presidency, national fields of action

- * Representatives of Amnesty International, Human Rights Watch and FIDH were invited to meet with members of COHOM in January 2004 to discuss preparations for CHR 60, and in June 2004 to discuss the outcome of CHR 60. They were again invited for an informal exchange of views on various topics related to Third Committee in October 2004.
- * Presidency, at times assisted by Council Secretariat, continued to hold regular briefings and debriefings before and after COHOM meetings for representatives of Amnesty International, Human Rights Watch and FIDH.
- * Members of the Troika also participated in the Human Rights EU Contact Group, organised by NGOs at the end and beginning of each Presidency, usually held in the premises of the EP, involving broad NGO and MEP participation as well as attendance by other Member State delegations. A separate debriefing was organised following the EU-China human rights dialogue.

13. EU Human Rights Discussion Forum

- * NGOs were very closely involved in the organisation of the Annual Human Rights Discussion Forum under the Netherlands Presidency, which focuses on Human Rights Defenders in 2004. EU Embassies which will play a central role in the implementation of the guidelines were also actively involved in the preparation of the Forum and were invited to attend for the first time.

IV. REVIEW AND UPDATING OF EU PRIORITIES IN HUMAN RIGHTS

- * Separate reviews were prepared on the implementation of the various EU Guidelines on Torture (2001), Death Penalty (1998), Children and Armed Conflict (2003) and Human Rights Dialogues (2001). It is still early days to review the Guidelines on Human Rights Defenders.

14. Reinforcing cooperation between the EU and the UN and other international and regional bodies

- * The Presidency consulted with the OHCHR regarding preparations for CHR 60 and on various other issues during 2004, such as the activities of UN human rights mechanisms and special rapporteurs.
- * There was also close cooperation with the UN Secretary General's Special Representative for Children and Armed Conflict and with UNICEF on the implementation of the EU's Guidelines on Children and Armed Conflict. The UN Special Representative on Human Rights Defenders was involved in the preparation of the EU Guidelines on Human Rights Defenders and invited to participate at the Annual Human Rights Discussion Forum.
- * UNICEF has played a key role in advancing training for EU officials in children's rights, including the convening of a seminar at the UNICEF Innocenti Research Centre in Florence in July 2004.
- * A wide range of international organisations continued to receive support under the EIDHR and other instruments for human rights and democracy projects.
